

Eric H. Gibbs (State Bar No. 178658)
David Stein (State Bar No. 257465)
Amy M. Zeman (State Bar No. 273100)

GIRARD GIBBS LLP
601 California Street, 14th Floor
San Francisco, California 94104
Telephone: (415) 981-4800
Facsimile: (415) 981-4846
Email: ehg@girardgibbs.com

Class Counsel

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

DENO MILANO,

Case No. 10-CV-2125-CW

Plaintiff,
vs.

**DECLARATION OF ERIC H. GIBBS IN
SUPPORT OF PLAINTIFF'S REPLY
MEMORANDUM**

INTERSTATE BATTERY SYSTEM OF
AMERICA, INC.; INTERSTATE BATTERY
SYSTEM INTERNATIONAL, INC.,

Defendants.

I, Eric H. Gibbs, declare as follows:

1. I am a partner at Girard Gibbs LLP, the law firm appointed to serve as class counsel in this case. I submit this declaration in support of Plaintiff's Reply Memorandum in support of Plaintiff's Motion for Final Approval of Class Settlement and Motion for Attorneys' Fees, Expenses, and Service Awards. I have personal knowledge of the facts below and, if called upon to do so, could and would testify competently thereto.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the objection of Leonard A. Wood, Jr. forwarded to class counsel by the settlement administrator on May 24, 2012.

3. I am informed by counsel for Defendants that Interstate's records show that Mr. Wood's dealership relationship with Interstate terminated in July 2011.

4. I am informed by counsel for Defendants that the customer referenced in Mr. Wood's objection complained to Interstate shortly after her replacement battery purchase in June 2011 and that Interstate refunded the full purchase price of her original battery at that time, after determining the dealer had not properly calculated the pro rata warranty price.

5. I am not aware of any relationship to or affiliation with Joe Gibbs, a NASCAR racer sponsored by Interstate Batteries, by myself or Girard Gibbs LLP.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 7th day of June 2012, at San Francisco, California.

/s/ Eric H. Gibbs

Eric H. Gibbs

EXHIBIT 1

Leonard A. Wood, Jr. owner

Choice Auto Repair Inc.

4500 Western Blvd. Suite 102

Raleigh, N.C. 27606

Phone: 919 233-0033

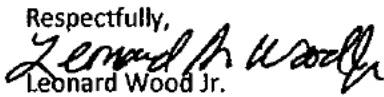
The purpose of this communication is to strongly object to Milano v. Interstate Battery System of America, Inc. From what I've been able to gather, I feel the settlement is much too inadequate to address the financial hardship and aggravation experienced by me and my customers over recent years.

--I was an Interstate Dealer in my auto service facility until a few months ago, before I finally discontinued selling Interstate Batteries. I recall several episodes where I incurred loss just to try to "right" the insufficient warranty rates being paid. I have several customers that I replaced their defective battery with a different brand altogether, to get me out from under the worry of installing a battery, which seemingly didn't have the quality it once had years ago. The idea that the matter can be addressed with such a small token amount does not begin to rectify the situation.

Another issue is the lack of notification about the lawsuit. I as a dealer was not notified by any agent of Interstate and found out through a customer who did her own research and forwarded the information to me. Her vehicle history is enclosed, at that time she placed a call with Interstate and was told over the phone by an Interstate rep that I had improperly pro-rated her battery. I remember that at the time this response (or lack of) did not sit well with me at all. I felt like I was doing everything possible to handle the situation responsibly.

My last point is simply a question. I don't mean to be disrespectful to anyone, I just want to be clear. Is the law firm handling this matter any family relation to the Interstate affiliated Joe Gibbs? If so, it would seem to me there could be a conflict of interest.

Thank you for the opportunity to respond to this matter.

Respectfully,

Leonard Wood Jr.

5-17-2012

CHOICE AUTO REPAIR, INC.

4500 Western Blvd. Suite 102
 RALEIGH, NC 27606
 (919) 233-0033

GET YOUR OIL CHANGE REWARD CARD!

Repair Order #0022728

Date : 6/30/11

Page : 1

Center : 1

Customer : THOMAS, DENISE

Address : [REDACTED]

City : [REDACTED]

WORK : ([REDACTED]) [REDACTED] Ext : W

CELL : ([REDACTED]) [REDACTED] Ext :

Vehicle : 2002 NISS MAXIMA

License : [REDACTED]

Prod : 3/02

VIN : [REDACTED]

Engine : V6-3498 3.5L DOHC

Trans : AUTO

Mileage : 86526

Colr : GOLD

Op	Tech	Description	Part Number	Part Description	Reason for Replacement	Labor	Parts	Subtotal
			Quan				Price	
Service Requests:								
-OIL CHANGE -NCSI								
15K002	WW	-PERFORM OIL CHANGE SERVICE		-CHANGE OIL AND FILTER		15.00	24.10	39.10
		-TOP OFF FLUIDS		-ADJUST TIRE PRESSURE				
	4.00	FL50200		5W30 OIL QT.			15.80	
	1.00	1520865F00		OIL FILTER			8.30	
SI 002	WW	NORTH CAROLINA STATE INSPECTION				30.00		30.00
EL 0	WW	REPLACE BATTERY(PRORATED)				0.00	99.90	99.90
	1.00	MTP24F		INTERSTATE BATTERY			99.90	
BE 0	WW	REPLACED ONE LIC.PLATE BULB				0.00	3.00	3.00
	1.00	194		BULB			3.00	
Payments:								
VISA, \$189.92, on 06/30/11								

OK Bad	Recommendation	OK Bad	Recommendation	OK Bad	Recommendation

I hereby authorize the repair work to be done along with the necessary parts and materials and hereby grant you and/or your employees permission to operate the vehicle herein described on streets, highways or elsewhere, at your discretion, for the purpose of testing and/or inspection. An express mechanics lien is hereby acknowledged on the above vehicle to secure the amount of repairs thereto. I understand that dealer/owner is not responsible for delay or other consequence due to the unavailability of parts shipments beyond their control. NOT RESPONSIBLE FOR DAMAGE OR ARTICLES LEFT IN CAR IN CASE OF FIRE, THEFT OR ANY OTHER CAUSE BEYOND OUR CONTROL.

Labor :	\$45.00	
Parts :	\$127.00	
Sublet :	\$0.00	
Other Fees:	\$0.00	
Enviro/Suply	\$7.62	
Subtotal :	\$179.62	
Sales Tax :	\$10.30	
Paid By :	Total :	\$189.92
VISA		
Pay Ref:	Paid :	\$189.92
	Due :	\$0.00

HAVE A NICE DAY!!!

CHOICE AUTO REPAIR, INC.

4500 Western Blvd. Suite 102
 RALEIGH, NC 27606
 (919) 233-0033

GET YOUR OIL CHANGE REWARD CARD!

Repair Order #0018490

Date : 1/31/08
 Page : 1
 Center : 1

Customer : THOMAS, DENISE

Address : [REDACTED]

City : [REDACTED]

WORK : ([REDACTED]) [REDACTED] Ext : W

CELL : ([REDACTED]) [REDACTED] Ext :

Vehicle : 2002 NISS MAXIMA

License : [REDACTED] Prod : 3/02

VIN : [REDACTED]

Engine : V6-3498 3.5L DOHC Trans : AUTO

Mileage : 54592 Colr : GOLD

Op	Tech	Description	Part Description	Reason for Replacement	Labor	Parts	Subtotal
	Quan	Part Number				Price	
15K002	AM	-PERFORM OIL CHANGE SERVICE	-CHANGE OIL AND FILTER -TOP OFF FLUIDS	-ADJUST TIRE PRESSURE	15.00	12.52	27.52
	4.00	F11	10W30 OIL QT.			12.52	
EL 0	AM	REPLACED BATTERY(N/C)	MISCELLANEOUS PARTS		0.00	104.13	104.13
	1.00	1520865F00	OIL FILTER			6.52	
	1.00	MTP24/24F	INTERSTATE BATTERY			97.61	

Payments:

Visa, \$145.65, on 01/31/08

CardNo: [*****1806], AuthorizationNo: [00000000]

OK Bad	Recommendation	OK Bad	Recommendation	OK Bad	Recommendation

I hereby authorize the repair work to be done along with the necessary parts and materials and hereby grant you and/or your employees permission to operate the vehicle herein described on streets, highways or elsewhere, at your discretion, for the purpose of testing and/or inspection. An express mechanics lien is hereby acknowledged on the above vehicle to secure the amount of repairs thereto. I understand that dealer/owner is not responsible for delay or other consequence due to the unavailability of parts shipments beyond their control. NOT RESPONSIBLE FOR DAMAGE OR ARTICLES LEFT IN CAR IN CASE OF FIRE, THEFT OR ANY OTHER CAUSE BEYOND OUR CONTROL.

Labor :	\$15.00	
Parts :	\$116.65	
Sublet :	\$0.00	
Other Fees :	\$0.00	
Enviro/Supply	\$5.83	
Subtotal :	\$137.48	
Sales Tax :	\$8.17	
Paid By :	Total :	\$145.65
VISA	Paid :	\$145.65
Pay Ref :	Due :	\$0.00

HAVE A NICE DAY!!!

Cherokee Auto Repair
4500 Western Blvd., Ste. 102
Raleigh, North Carolina 27606
(919) 233.0033 Fax (919) 233.0313

Milano & Interstate Battery System of America
c/o G.G.P.O. Box 9282
Dublin OH 43017-5682

